Seventh, that the security given in respect of the Singapore arrest will be replaced by like security by the defendants' protection and indemnity club for the purposes of litigation in Denmark if the Singapore action is stayed; that in fact on February 5, 1975, the defendants' solicitors wrote to the plaintiffs' solicitors and made such an offer.

Eighth, that apart from the provisions in the Bills of Lading as to jurisdiction, the plaintiffs had timely notice of the defendants' intention to litigate in Denmark because the motion was filed on January 30, 1975, and by the aforesaid letter dated February 5, 1975, the defendants even nominated solicitors in Denmark to accept service of proceedings in Denmark; that inspite of that the plaintiffs allowed the one year period of limitation in Denmark to expire.

Ninth, that if the court is of the view that the defendants should not plead time limitation as a defence in Denmark, the defendants were prepared to give an undertaking not to do so if the plaintiffs commence proceedings in Denmark within a period of three months from the date of the order made by this court.

In exercising its discretion the court should take into account all the circumstances of the particular case. The matters, where they arise, that may be properly regarded are summarised by Brandon J. in *The "Eleftheria"*.[2]

The contention of the plaintiffs that the control and management of the defendant company is in fact concentrated in Hong Kong is not well-founded. Nor is their allegation that the defendants through their agents and their solicitors have on various occasions admitted that the goods were in fact short-delivered substantiated. The copies of correspondence that are exhibited to the affidavit of one of the plaintiffs' witnesses (Mr. K.M.M.B. Kulatunga) are correspondence not between the defendants' agents and the plaintiffs but between the agents of the charterers and the plaintiffs.

I have considered carefully all the factors advanced by either side in support of and against a stay in the present case other than the factor of the time bar in Denmark. I am of the view that the plaintiffs have failed to show strong cause why this action should continue.

The main matter which is of dominant significance in this case is that no evidence at all relating to the likely issues of fact is in Singapore. The disputes between the plaintiffs and the defendants are not in any way connected with Singapore or Singapore law. The only reason why the case is before this court is because the ship was arrested here by the plaintiffs for security when she was in port in the course of another voyage. This is a strong factor tending to reinforce the *prima facie* case for stay. There are other factors of substantial importance namely the real connection of the defendants with Denmark and the defendants' willingness to protect the plaintiffs in relation to security for their claim and their willingness to give an undertaking not to plead time limitation as a defence in Denmark if the plaintiffs commence proceedings in Denmark.

I have come to the conclusion that I should exercise my discretion by granting a stay on the conditions that the defendants provide a similar security in Denmark and give an undertaking not to plead time limitation as a defence in Denmark if the plaintiffs commence proceedings in Denmark within a period of three months from the date of the order made by this court.

In the result the motion is allowed with costs.

*Motion allowed.*

Solicitors: *Murphy & Dunbar; Rodyk & Davidson.*

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## PUBLIC PROSECUTOR v. MOHAMED ALI BIN MOHAMED AMIN & ANOR.

**[A.Cr.J. (Wee Chong Jin C.J.) January 10, 1979]**
**[Singapore — Magistrate's Appeal No. 22 of 1978]**

*Bribery and Corruption — Corruption — Immigration officers accepting money from tourist tout — Supplying tout with information contained in completed Embarkation Forms — "Corrupt" acceptance — Question of fact — Prevention of Corruption Act (Cap. 104), s. 6(a) — Penal Code (Cap. 103), s, 34.*

*Immigration — Immigration officers — Supplying information in Disembarkation Forms to tourist tout — Standing instructions prohibiting divulgence to public — Whether acceptance of gratification amount to "corrupt" acceptance — Prevention of Corruption Act (Cap. 104), s. 6(a) — Penal Code (Cap. 103), s. 34.*

The respondents in this case were Immigration Officers. They were jointly charged under section 6(a) of the Prevention of Corruption Act for corruptly accepting money ($30) as a reward for supplying information contained in the Embarkation forms to one Noor, a tourist tout. There was a standing instruction to all Immigration officers that the information contained in those forms could not be divulged to the public. The learned district judge in acquitting the accused found the preparation of the list from the information contained in the completed Disembarkation Forms for the purpose of enabling the tourist tout to tout for business from incoming tourists was not an act in relation to their principal's affairs or business because it was "an innocuous act in relation to their principal's affairs." The prosecution appealed.

**Held,** allowing the appeal: (1) the finding that what the respondents did was not an act in relation to their principal's affairs was clearly wrong;

(2) whether or not acceptance of a gratification amounts to a "corrupt" acceptance punishable under the Prevention of Corruption Act is a question of fact which falls to be decided on the proved facts and the circumstances in each case.

MAGISTRATE'S APPEAL.

*Loke Yoon Kee* (Deputy Public Prosecutor) for the appellant.

*Mohamed Kamil bin Mohamed Fadzullah Suhaimi* for the first respondent.

*Joe Chellam* for the second respondent.

*Cur. Adv. Vult.*

**Wee Chong Jin C.J.:** The respondents, Mohd. Ali bin Mohd. Amin and Mohd. Ibrahim bin Abdul Kadir were jointly charged on the following charge: —

"You, Mohd. Ali bin Mohd. Amin and Mohd. Ibrahim bin Abdul Kadir are charged that you on or about the 17th day of May 1977 at about 6.40 a.m. at the Paya Lebar Interna-

tional Airport, Singapore, being agents, to wit, Immigration Officers of the Immigration Department, Singapore, in furtherance of the common intention of both of you, did corruptly accept from one Noor Mohammed Iqbal bin A. Rahman for yourselves, a gratification of a sum of Thirty Dollars ($30) as a reward for doing an act in relation to your principal's affairs, to wit, supplying a list containing the names of the tourists and the hotels where they would be staying to the said Noor Mohammed Iqbal bin A. Rahman and you have thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act (Chapter 104) read with section 34 of the Penal Code (Chapter 103)."

At the close of the case for the prosecution, the district judge found that no case had been made out which, if unrebutted, would warrant conviction of the respondents and acquitted and discharged them. The Public Prosecutor now appeals. The undisputed facts are these. The respondents were Immigration Officers attached to the Singapore Airport at all material times. Their duties include checking passports and Disembarkation Forms against a book containing names of wanted persons and the collection and sorting out of Disembarkation Forms which incoming passengers had to fill up. The completed Disembarkation Forms contain the names, places of stay and duration of stay of incoming passengers together with their flight numbers. The information contained in these forms was for survey and security purposes. There was a standing instruction to all Immigration Officers that the information contained in these forms could not be divulged to members of the public.

By a prior arrangement between the respondent Mohd. Ali bin Mohd. Amin (hereinafter called "the 1st respondent") and a tourist tout, Noor Mohammed Iqbal, the 1st respondent was to hand over to the tourist tout a list containing the names of incoming tourists, their flight numbers showing the countries of origin of the flights and the names of the hotels they would be staying in whilst in Singapore. On the appointed day, instead of the 1st respondent, the respondent Mohd. Ibrahim bin Abdul Kadir (hereinafter called "the 2nd respondent") met the tourist tout at the Airport arrival hall and they proceeded to the Airport toilet room where the 2nd respondent handed the tourist tout the said list and in exchange received $30 in cash. The 2nd respondent when confronted by officers from the Corrupt Practices Information Bureau ran out of the toilet room but was apprehended by another C.P.I.B. officer. The names and other particulars in the list handed to the tourist tout were extracted from the Disembarkation Forms collected from incoming passengers. The respondents knew that the purpose the tourist tout wanted the list and paid $30 for it was to enable him to contact the tourists named in the list so as to make arrangements with these tourists to be taken to the Premier Shopping Complex.

On those facts the district judge found the preparation of the list from the information contained in the completed Disembarkation Forms for the purpose of enabling the tourist tout to tout for business from incoming tourists during their stay in Singapore was not an act in relation to their principal's affairs or business because it was "an innocuous act in relation to their principal's affairs". In my judgment, the finding that what the respondents did was not an act in relation to their principal's affairs was clearly wrong.

The real point, as appears from the use of the word "innocuous" by the district judge, is whether or not on the undisputed facts the prosecution has proved there was a "corrupt" acceptance by the respondents of the $30 as a reward for what they did in relation to their principal's affairs. The fact that they had supplied to a tourist tout information which was available to them only because they were Immigration Officers attached to the Singapore Airport for a gratification and the circumstances under which they extracted the particulars contained in the Disembarkation Forms and passed on those particulars to the tourist tout are sufficient proof, unless rebutted, that they had "corruptly" accepted the $30 from the tourist tout. In my opinion, whether or not acceptance of a gratification amounts to a "corrupt" acceptance punishable under the Prevention of Corruption Act is a question of fact which falls to be decided on the proved facts and the circumstances in each case.

Accordingly, the appeal is allowed and the order for acquittal set aside. I order that the case be remitted to the trial court and that the respondents be called upon to make their defence.

*Order accordingly.*

Solicitors: *Harbans Singh & Kamil; Ong & Chellam.*

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## MOHAMED ALI BIN MOHAMED IQBAL v. PUBLIC PROSECUTOR

**[A.Cr.J. (Wee Chong Jin C.J.) January 10, 1979]**
**[Singapore — Magistrate's Appeal No. 33 of 1978]**

*Bribery and Corruption — Corruption — Immigration officer supplying names of tourists and their places of stay to third party and receiving gratification in return — Prevention of Corruption Act (Cap. 104) s. 6(a).*

*Agency — Scope of s. 6(a) of Prevention of Corruption Act — Agent corruptly accepting gratification as reward for act in relation to principal's affairs — Immigration officer agent of government — Prevention of Corruption Act (Cap. 104), s. 6(a).*

*Immigration — Immigration officer corruptly accepting gratification as reward for act in relation to principal's affairs — Immigration officer agent of Government — Prevention of Corruption Act (Cap. 104), s. 6(a).*

The appellant in this case was an Immigration officer attached to the Singapore Airport. His duties included the checking of incoming passengers' passports and their Disembarkation Forms which incoming passengers had to fill up. Each completed form contained the name, place of stay and duration of stay of each incoming passenger. There was standing instruction to all Immigration officers that the information contained in these forms could not be divulged to members of the public. On May 13 and 15, 1977, the appellant supplied two lists containing the names of incoming tourists, their flight numbers showing the countries of origin and the names of hotels they would be staying in Singapore to one Noor Mohamed Iqbal, a sales promotion officer employed by a shopping centre. In return for the said two lists he received $30 and $20 respectively. At the trial he elected to remain silent. He was charged and convicted and fined $1,000 on each charge under section 6(a) of the Prevention of Corruption Act. He appealed.

**Held,** dismissing the appeal: for a conviction under section 6(a) of the Prevention of Corruption Act it need not be proved that the acts done by a person were done by him as agent